

*Not To Be Published:*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

SCOTT L. TINIUS,

Plaintiff,

vs.

CARROLL COUNTY SHERIFF  
DEPARTMENT; CARROLL COUNTY  
SHERIFF; DOUG BASS, individually  
and in his official capacity; JOHN DOE  
DEPUTIES, individually and in their  
official capacities; ST. ANTHONY  
REGIONAL HOSPITAL AUXILIARY,  
INC.; ERIN KLEKOT; DAVID  
MCCOY; TAMMY ROETMAN;  
CHEROKEE MENTAL HEALTH  
INSTITUTE; and, G. SKOREY,

Defendants.

No. C03-3001-MWB

**MEMORANDUM OPINION AND  
ORDER REGARDING  
DEFENDANTS', ST. ANTHONY  
REGIONAL HOSPITAL  
AUXILIARY, INC., ERIN KLEKOT,  
TAMMY ROETMAN AND DAVID  
MCCOY, MOTION TO DISMISS  
SUPPLEMENTAL CLAIMS**

---

***I. INTRODUCTION AND BACKGROUND***

***A. Procedural Background***

Plaintiff Scott L. Tinius filed this lawsuit on January 2, 2003, against various state and county officials and employees. At the center of this lawsuit is Tinius's continued detention by various defendants following his being stopped by Carroll County Deputies. In Count I of his complaint, Tinius alleges that defendants Carroll County Sheriff

Department, Carroll County Sheriff, Doug Bass and John Doe Deputies (“The Sheriff Defendants”) violated 42 U.S.C. § 1983 by violating Tinius’s rights to substantive due process of law by unlawfully detaining him. In Count II, Tinius alleges that the Sheriff Defendants violated 42 U.S.C. § 1983 by violating Tinius’s rights under the Fourth Amendment to be free from unlawful seizures by unlawfully detaining him. In Count III, Tinius alleges a claim for false imprisonment against all named defendants. In Count IV, Tinius alleges a claim for assault and/or battery against all named defendants. In Count V, Tinius alleges a claim for intentional infliction of emotional distress against all named defendants. In Count VI, Tinius alleges an invasion of privacy claim against all named defendants. In Count VII, Tinius alleges a negligence claim against all named defendants. Tinius contends that the defendants owed a duty to him to protect his constitutional rights which they breached by unlawfully detaining him and subjecting him to unwanted physical intrusion.

Defendants Cherokee Mental Health Institute and Dr. Skorey moved to dismiss Counts III, IV, V, VI, and VII of the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). The Sheriff Defendants, and Anthony Regional Hospital Auxiliary, Inc., Erin Klekot, and Tammy Roetman (“The Hospital Defendants”) each filed for summary judgment. In separate opinions, the court granted defendants Cherokee Mental Health Institute and Dr. Skorey’s Motion To Dismiss as well as the Sheriff Defendants’ Motion For Summary Judgment. However, the court denied the Hospital Defendants’ Motion For Summary Judgment.

At the time this case was filed, the court had subject matter jurisdiction pursuant to 28 U.S.C. § 1343(a)(3)-(4), which provides the United States District Courts have original jurisdiction over all suits brought under 42 U.S.C. § 1983. The court also had original jurisdiction under 28 U.S.C. § 1331, which confers original jurisdiction on United States

District Courts over civil actions arising under federal laws, treaties or the United States Constitution. The court also had supplemental jurisdiction over Tinius's state law claims pursuant to 28 U.S.C. § 1367(a). As a result of the court's prior rulings granting defendants Cherokee Mental Health Institute and Dr. Skorey's Motion To Dismiss and the Sheriff Defendants' Motion For Summary Judgment, all of Tinius's claims which would confer original jurisdiction on the court have been dismissed. The Hospital Defendants have now filed their Motion To Dismiss Supplemental Claims in which they request that the court decline to continue to exercise its supplemental jurisdiction over the remaining state law claims against them. The Hospital Defendants contend that the values of economy, convenience, fairness, and comity require the court to dismiss Tinius's remaining state law claims. Defendant Tinius filed a timely resistance to the Hospital Defendants's motion.

## ***II. LEGAL ANALYSIS***

The statute defining the supplemental jurisdiction of the federal courts provides as follows:

[I]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

28 U.S.C. § 1367(a). The Eighth Circuit Court of Appeals has observed that the word "shall" in the phrase "shall have supplemental jurisdiction" "is a mandatory command." *McLaurin v. Prater*, 30 F.3d 982, 984 (8th Cir. 1994). The court of appeals pointed out further that:

Congress has directed that federal district courts 'shall' have jurisdiction in both 28 U.S.C. § 1331 (1988) (federal question jurisdiction) and 28 U.S.C. § 1332 (1988) (diversity jurisdiction), and the accepted import of the terms is that federal courts must accept and cannot reject jurisdiction in such cases.

*McLaurin*, 30 F.3d at 984-85 (citing *McCarthy v. Madigan*, 503 U.S. 140, 145-47 (1992), and *Willcox v. Consolidated Gas Co.*, 212 U.S. 19, 40 (1909)).

There are exceptions to this mandate, however, and some of those exceptions are cast in discretionary terms. *Id.* at 985 (citing 28 U.S.C. §§ 1367(c)). A court “may decline to exercise supplemental jurisdiction” if:

- (1) the claim raises a novel or complex issue of State law,
- (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
- (3) the district court has dismissed all claims over which it has original jurisdiction, or
- (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

28 U.S.C. § 1367(c).

This subsection gives a court the discretion to reject jurisdiction over supplemental claims, "but only to a point." *McLaurin*, 30 F.3d at 985. “The statute plainly allows the district court to reject jurisdiction over supplemental claims only in the four instances described therein.” *Id.* Thus, where the case clearly fits within one of the subsections listed above, the court may decline to exercise supplemental jurisdiction. *Packett v. Stenberg*, 969 F.2d 721, 726-27 (8th Cir. 1992); *see also O'Connor v. State of Nev.*, 27 F.3d 357, 362 (9th Cir. 1994), *cert. denied*, 514 U.S. 1021 (1995); *Growth Horizons, Inc. v. Delaware County, Pa.*, 983 F.2d 1277, 1285 n. 14 (3d Cir. 1993); *Chesley v. Union*

*Carbide Corp.*, 927 F.2d 60, 65-66, n.3 (2d Cir. 1991); *Carroll v. Borough of State College*, 854 F. Supp. 1184, 1200 (M.D. Pa. 1994), *aff'd mem.*, 47 F.3d 1160 (3d Cir. 1995). The Eighth Circuit Court of Appeals has counseled that, once one of the grounds listed in § 1367(c) is present, the court's discretion "should be guided by considerations of judicial economy, convenience, and fairness to the litigants." *Cossette v. Minnesota Power & Light*, 188 F.3d 964, 973 (8th Cir. 1999); *accord Allen v. City of Los Angeles*, 92 F.3d 842, 846 (9th Cir. 1996) (noting that court "should consider whether the exercise of jurisdiction advances 'the values of economy, convenience, fairness, and comity.'") (quoting *Executive Software v. United States Dist. Court*, 24 F.3d 1545, 1557 (9th Cir. 1994)), *overruled in part*, *Acri v. Varian Assocs., Inc.*, 114 F.3d 999 (9th Cir. 1997) (*en banc*). However, "in the absence of the circumstances described in subsections (b) and (c), § 1367(a) requires the district court to accept supplemental jurisdiction over the state-law claims [the plaintiff] has raised in [the] case." *McLaurin*, 30 F.3d at 985. This case clearly fits within § 1367(c), because it is a case in which "the district court has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3). That being so, "the court should consider whether the exercise of jurisdiction advances 'the values of economy, convenience, fairness, and comity.'" *Allen*, 92 F.3d at 846. Furthermore, "[i]t is the law of this circuit that 'the substantial investment of judicial time and resources in the case . . . justifies the exercise of jurisdiction over the state claim, even after the federal claim has been dismissed.'" *Pioneer Hi-Bred Int'l v. Holden Foundation Seeds, Inc.*, 35 F.3d 1226, 1242 (8th Cir. 1994) (quoting *North Dakota v. Merchants Nat'l Bank & Trust Co.*, 634 F.2d 368, 371 (8th Cir. 1980)) (*en banc*), and also citing *Gilbert/Robinson, Inc. v. Carrie Beverage-Missouri, Inc.*, 989 F.2d 985, 993 (8th Cir.), *cert. denied*, 510 U.S. 928 (1993), and *First Nat'l Bank & Trust Co. v. Hollingsworth*, 931 F.2d 1295, 1307-08 (8th Cir. 1991)); *accord Murray v. Wal-Mart, Inc.*, 874 F.2d 555, 558 (8th Cir. 1989)

(also stating that retention of jurisdiction is proper in such circumstances).

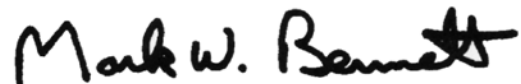
Guided by these considerations, the court has no hesitation here in retaining supplemental jurisdiction over Tinius's remaining state-law claims. This court has already invested substantial resources in pre-trial administration so as to make retention of jurisdiction appropriate. *Pioneer Hi-Bred Int'l*, 35 F.3d at 1242; *Murray*, 874 F.2d at 558. Furthermore, this matter is set for a jury trial in this court in just a month. The shortness of time before trial scheduled in this court and the uncertainties of the availability of a comparable trial date in state court mean that there are no "factors such as convenience, fairness, and comity" suggesting that remand should be preferred. *Pioneer Hi-Bred Int'l*, 35 F.3d at 1242; *Cossette*, 188 F.3d at 973; *Murray*, 874 F.2d at 558. Therefore, the Hospital Defendants' Motion To Dismiss Supplemental Claims is denied.

### ***III. CONCLUSION***

Although the court concludes that this case clearly fits within § 1367(c), because the court has dismissed all claims over which it has original jurisdiction, the substantial investment of judicial time and resources in this case and the shortness of time before trial justifies the court in continuing to exercise its supplemental jurisdiction over the state-law claims plaintiff Tinius has raised in this case. Therefore, the Hospital Defendants' Motion To Dismiss Supplemental Claims is denied.

**IT IS SO ORDERED.**

**DATED** this 17th day of December, 2004.



---

MARK W. BENNETT  
CHIEF JUDGE, U. S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA